IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 205 of 2004
WITH
COMPANY PETITION No. 206 of 2004
COMPANY PETITION No. 207 of 2004

For Approval and Signature:

THE HON'BLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KISMAT SALT & CHEMICALS PVT. LTD. - Petitioner(s)
Versus
.. - Respondent(s)

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Appearance :

MRS SWATI SOPARKAR for Petitioner No(s).: 1.
MR JITENDRA MALKAN for Central Government.

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CORAM :THE HON'BLE MR.JUSTICE K.A.PUJ

Date : 23/06/2005

COMMON ORAL JUDGMENT

1. These are the petitions filed by three petitioner Companies for sanction of a Scheme of amalgamation of first two (the Transferor Companies) with White Rose Salt and Chemicals Private Limited (the Transferee Company) under Section 391 read with Section 394 of the Companies Act, 1956.

2. All the petitioner Companies are private limited companies and belong to the same group of management. All the petitioner companies are engaged in manufacturing and trading of the common salt. Their commercial activities are identical. All the companies are profit making companies. The amalgamation is proposed for the synergic advantages. The petitions give details of the advantages that would flow by virtue of the amalgamation of these companies.

3. The proposed scheme was approved unanimously by

the Equity Shareholders and Unsecured Creditors of both the Transferor Companies through the consent letters which were put on record along with respective applications. There are no secured creditors in case of either of the Transferor Companies. The Equity Shareholders of the Transferee Company also approved the Scheme through their consent letters. Hence, the meetings of the shareholders and creditors were not required to be held and accordingly they were dispensed with vide order passed on 10.09.2004 annexed to the petitions as Annexure D.

4. After the petitions were admitted, the same were duly advertised in the newspapers viz. Indian Express – Vadodara edition and Loksatta-Jansatta – Vadodara edition dated 09th October 2004 and the publication in the Government Gazette was dispensed with as directed in the order dated 27.09.2004. No one has come forward with any objections to the said petitions even after the

publication.

5. Notices of the petition of the petitioner Transferor Companies were served upon the Official Liquidator attached to this Court. Vide reports dated 10.04.2005 and 22.06.2005 filed by the Official Liquidator, it is observed that the affairs of the Transferor Companies have not been conducted in a manner prejudicial to the interest of their members or to the public interest.

6. Notices of the petition have been served upon the Central Govt. and Shri J.M. Malkan, learned Assistant Solicitor General appears for the Central Govt. Shri Malkan has informed the Court and put on record the letter from the Registrar of Companies of Gujarat dated 11.05.2005 along with the Regional Director's letter dated 18.04.2005 indicating that the Central Govt. has made only one observation. This pertains to the issue of not seeking dispensation of the meeting of the

Creditors of the Transferee Company.

7. I have heard Smt. Swati Soparkar, learned advocate for the petitioner Companies. A submission has been made by her that since no compromise is offered to the Creditors of the Transferee Company and that rights or interests of the Creditors of the Transferee Company are in no way affected by the proposed Scheme, it is not necessary to get the approval of the Creditors of the Transferee Company either at the meeting or through the consent letters. In view of the same, the Transferee Company has not sought any dispensation of the said meeting.

8. Having gone through the petitions and considering the submissions, I am satisfied that the observation made by the Registrar of Companies does not survive and the amalgamation would be in the interest of the companies and their members and creditors. Prayer in terms of paragraph 15

(A) in case of all the petitions is hereby granted.

9. The petitions are disposed of accordingly. So far as the costs to be paid to the learned Assistant Solicitor General is concerned, I quantify the same at Rs. 3,500/- per petition. The same may be paid to the learned advocate Shri J.M. Malkan.

[K.A. PUJ, J.]

Savariya